

Award No. 2924

Docket No. 2736

2-ATSF-EW-'58

NATIONAL RAILROAD ADJUSTMENT BOARD

SECOND DIVISION

The Second Division consisted of the regular members and in addition Referee James P. Kiernan when the award was rendered.

PARTIES TO DISPUTE:

**SYSTEM FEDERATION NO. 97, RAILWAY EMPLOYES'
DEPARTMENT, AFL-CIO (Electrical Workers)**

**THE ATCHISON, TOPEKA AND SANTA FE
RAILWAY COMPANY**

DISPUTE: CLAIM OF EMPLOYES:

1. That under the current agreement the Carrier improperly and arbitrarily placed upon the Shop Extension Electrical Department, Coast Lines Electricians' Seniority Roster, Mr. H. L. Gramling.

2. That, accordingly, the Carrier be ordered:

(a) To remove Mr. H. L. Gramling from the Coast Lines Shop Extension, Electricians' Seniority Roster.

(b) To desist from using any other method than the provisions of the agreement to place employees on the Electricians' Seniority Roster.

(c) If the Carrier desires to make electrical drafting experience a part of Electrical Workers' work and to be a part of Electricians' qualifications, bulletin same as provided by Rule 16.

EMPLOYEES' STATEMENT OF FACTS: Coast Lines Shop Extension Department electrical employees on the electrical workers' roster as of January 1, 1950, classified as electricians, electrician helpers and apprentices, are electrical workers in the intent and meaning of the electrical workers' special rules of the current agreement effective August 1, 1945, and are hereinafter referred to as the claimants. The claimants are monthly rated employees, regularly employed by The Atchison, Topeka and Santa Fe Railway Company,

satisfactory. It is also a matter of record that while employed in electrician's work for the carrier, his services were entirely satisfactory. As further evidence of his qualifications as electrical worker, Mr. Gramling obtained and still holds the following licenses:

City of San Diego, Electrician Journeyman, License No. 1544.

City of Los Angeles, Electrical Contractor, Business License No. L325425.

County of Los Angeles Class A Master Electrician, License No. F1275.

City of Fullerton Electrical Contractor, Business License No. 4203.

City of Fullerton Electrician Journeyman, License No. 93.

State of California C-10 Electrical Contractor, License No. 133894. (One of the requirements for obtaining such license is a minimum of four years experience as an electrician.)

The carrier has clearly established that:

1) Confirmed records show Mr. Gramling did, in fact, accumulate four years experience in electrical work on March 31, 1950.

2) The general chairman was invited to examine these records to satisfy himself regarding their correctness but he declined to do so.

3) The qualification of Mr. Gramling as an electrical worker is fully in accordance with Electrical Worker's Qualifications Rule 91 of the Shop Crafts' Agreement effective August 1, 1945.

4) Mr. Gramling's name correctly appears on the carrier's Shop Extensions Department Coast Lines electricians' seniority roster with date of March 31, 1950.

The carrier petitions the Board to decline the claim on the basis that Mr. Gramling did, in fact, meet all requirements of the agreement with the employees, to establish electrician's seniority as of March 31, 1950.

FINDINGS: The Second Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

The parties to said dispute were given due notice of hearing thereon.

This claim is based upon the alleged "improperly and arbitrarily placing upon the Shop Extension Electrical Department, Electricians' Seniority Roster" the name of H. L. Gramling.

Gramling was employed by carrier September 11, 1945 as an electrician helper; he resigned November 13, 1945. He was re-employed May 13, 1946 as electrician helper. On July 27, 1948 he was upgraded to an electrician. On September 15, 1951 he was given a position as draftsman.

Prior to his employment with carrier Gramling was employed by an electrical contractor engaged in installing of lighting and power equipment in houses, commercial and industrial buildings. He was so employed by that company as follows:

August, 1939 to January, 1940 as probationary electrician.

January, 1940 to April, 1941 as electrician.

June, 1943 to December, 1943 as electrician.

Rule 92 states ". . . or who has had four years practical experience in electrical work, and who is competent to execute same to a successful conclusion within a reasonable time shall be considered an electrical worker". The rule does not indicate that the "practical experience" shall be with the carrier. However, a practical interpretation of the rule would lead us to believe that a concerted effort and determination to gain "practical experience" is intended, and that such experience he had in the various branches of the trade. In view of the shortage of electricians certain upgrading was permitted by agreement between the electricians and the carrier. Gramling was so upgraded July 27, 1948, and worked as an upgraded electrician until September 15, 1951. It is evident that neither Gramling or carrier interpreted any rule or understanding that would give Gramling a seniority date of March 31, 1950, on the Electricians' Seniority Roster, during his tenure of service as an upgraded electrician. He remained an upgraded electrician until he accepted the draftsman job. It was not until sometime during the year 1956, approximately five years after accepting the draftsman job, that he asked for electrician seniority.

It should be noted that the seniority date given Gramling is March 31, 1950; however, from that date until he was given the position of draftsman September 15, 1951 he worked as an upgraded electrician. Section (d) Rule 28 reads:

"The seniority of each employe shall start from the time he first performs actual service in the craft or class in which employed with the Company as evidenced by check or other registration . . .".

Rule 91 states:

"Any man who has served an apprenticeship, or who has had four years' practical experience in electrical work, and who is competent to execute same to a successful conclusion within a reasonable time shall be considered an Electrical worker."

Rule 91 establishes qualifications, it does not establish seniority. An employe may have the qualifications as required by rule 91, but unless he is employed as such he does not establish seniority. The record indicates that Gramling

remained an upgraded electrician until he accepted the position of draftsman. At no time was he promoted or given the rank of electrician by the carrier.

AWARD

Claim 1 sustained.

Claim 2 (a) sustained.

Claim 2 (b) and 2 (c) is an anticipated claim and cannot be passed upon under this docket.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of SECOND DIVISION

ATTEST: Harry J. Sassaman
Executive Secretary

Dated at Chicago, Illinois, this 30th day of July, 1958.